

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (12/5/2017 - 12/8/2017 Session)
Tuesday, December 05, 2017

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REVD 12/6/17

15-4788	Briefs	CRIMINAL: Does Geneva Convention bar prosecution for engaging in ongoing armed conflict; should "public authority" defense have been permitted; construction of 18 U.S.C. section 32(a).
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17-1145	Briefs	CIVIL: Whether district court abused its discretion in exercising managerial authority over precertification communications with putative class members by denying Appellant's motion to compel arbitration.
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16-2065	Briefs	ERISA: Whether district court abused its discretion in rejecting challenge to insurer's determination that disability insurance claimant was not disabled by multiple sclerosis.
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16-7418	Briefs	CIVIL RIGHTS: Whether district court properly granted summary judgment to prison officials on inmate's claim of deliberate indifference to serious dental needs.

PANEL I
Red Courtroom (Room 412)
9:30 a.m.

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16-6443	Briefs	CRIMINAL: Whether predicate North Carolina convictions qualify as violent felonies under Johnson v. United States, 135 S.Ct. 2551(2015).
US v. Corey Townsend (Osteen)		

16-9566	Briefs	POSTCONVICTION: Whether petitioner may raise claim in successive postconviction proceeding based on rule of constitutional law established after direct review but before initial postconviction proceeding.
In re: Jarius Phillips		

17-1627	Briefs	CLASS ACTION FAIRNESS ACT: Whether third-party defendant may remove state case to federal court once claims against original defendant are dismissed; other issues.
George Jackson v. Home Depot U.S.A., Inc. (Mullen)		

17-6307	Briefs	POST CONVICTION RELIEF: Whether the district court erred in granting federal habeas relief to Virginia petitioner; other issues.
Jason Contreras v. Keith Davis (Cacharis)		

Associations: 17-6351

PANEL II
Butzner Courtroom 201
9:30 a.m.

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17-1064	Briefs	CIVIL RIGHTS: Whether district court correctly determined on summary judgment that police officer's actions did not constitute unreasonable seizure; other issues.
David Lee v. Fort Mill, Town Of (Anderson)		

16-1768	Briefs	BLACK LUNG: Propriety of granting modification and awarding benefits following this Court's reversal of award; other issues.
Consolidation Coal Company v. Latusek		

16-2444	Briefs	IMMIGRATION: Whether Virginia offense of obstruction of justice is a crime involving moral turpitude; related issues.
Jose Ramirez v. Jefferson Sessions III		

17-1484	Briefs	CIVIL RIGHTS: Did district court err in finding that former Commissioner of Behavioral Health and Human Services was not entitled to sovereign or qualified immunity.
Roxanne Adams v. Debra Ferguson (Smith)		

PANEL III
Blue Courtroom (Room 339)
9:30 a.m.

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17-1152	Briefs	TITLE VII: Whether district court erred in granting summary judgment in favor of county on firefighter's sex discrimination and hostile work environment claims.
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17-1433	Briefs	TAX: Whether 30-day period under section 6330 (d) (1) in which to file Tax Court petition is jurisdictional; other issues.
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17-4046	Briefs	CRIMINAL: Evidentiary sufficiency challenge to conviction for deprivation of rights under color of law; propriety of admission of prior uses of force; other issues.
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16-2453	Briefs	BLACK LUNG: Whether the ALJ erred in excluding evidence relevant to physician's legal pneumoconiosis diagnosis; other issues.

PANEL IV
Gold Courtroom (Room 348)
9:30 a.m.

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17-1421	Briefs	CIVIL: Whether insured's lawsuit against her own insurer is "direct action" under 28 U.S.C. section 1332(c)(2) (2012); other issues.
Loretta Elliott v. American States Insurance (Tilley)		
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17-1075	Briefs	CIVIL: Whether product warning negated Plaintiff's design defect claim under South Carolina law; other issues.
Deborah Hickerson v. Yamaha Motor (Childs)		
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17-1132	Briefs	EMPLOYMENT: Whether district court erred in granting summary judgment to employer on former employee's discrimination and retaliation claims.
Sinan Rayyan v. VDOT (Hilton)		
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17-1187	Briefs	LABOR: Whether 29 CFR section 785.23, concerning presumptive number of hours employee is deemed to have worked, preempts other statutory requirements or regulations.
Maryam Balbed v. Eden Park Guest House, (Messitte)		

PANEL I
Red Courtroom (Room 412)
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17-1407	Briefs	TRADEMARK INFRINGEMENT: Whether district court erred in granting summary judgment on trademark infringement, unfair competition, and cybersquatting claims; other issues.
Valador, Inc. v. HTC Corporation		
(Ellis)		

16-4066	Briefs	CRIMINAL: Multiple challenges to conviction for conspiracy to commit unlicensed manufacture of firearms, unregistered shipment of firearms, and mail fraud.
US v. Mark Landersman		
(Brinkema)		

16-4067	Briefs	CRIMINAL: Multiple challenges to conviction for conspiracy to commit unlicensed manufacture of firearms, unregistered shipment of firearms, and mail fraud.
US v. Lee Hall		
(Brinkema)		

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Butzner Courtroom 201
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16-7360	Briefs	CIVIL RIGHTS: Whether the district court erred in dismissing inmate's Eighth Amendment claims of deliberate indifference to medical needs.
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17-1389	Briefs	VOTING RIGHTS: Did district court err in awarding fees against intervenor defendant congressional delegation members who continued to defend case after state defendants abandoned defense.
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17-1077	Briefs	CONTRACT: Whether district court properly granted judgment to plaintiff on defendants' counterclaims; whether plaintiff's unjust enrichment claim was properly submitted to jury; other issues.
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17-1301	Briefs	IMMIGRATION: Whether BIA erred in determining that Maryland theft conviction categorically qualifies as a crime involving moral turpitude; other issues.

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17-1166 [Briefs](#) CIVIL RIGHTS: Whether Baltimore City state's attorney was entitled to absolute prosecutorial immunity, qualified immunity and/or state statutory immunity from suit.
Edward Nero v. Marilyn Mosby
(Garbis)
Associations: 17-1168, 17-1169

17-1197 [Briefs](#) BANKRUPTCY: Whether bankruptcy petition should have been dismissed for "bad faith" under 11 U.S.C. section 707(a); equitable mootness.
Ralph Janvey v. Peter Romero
(Motz)

17-1349 [Briefs](#) LABOR: Whether district court exceeded its jurisdiction by enjoining company from moving portion of its facilities to other locations pending arbitration; other issues.
Intl Brotherhood Local 639 v. Airgas,
(Chuang)

17-1398 [Briefs](#) CONTRACT: Whether the district court erred in granting partial summary judgment on breach of contract claims; other issues.
Computer Sciences Corporation v. Federal
(O'Grady)

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Gold Courtroom (Room 348)
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17-1006	Briefs	IMMIGRATION: Whether substantial evidence supports agency's ruling that Petitioner failed to establish eligibility for asylum based on fear of future persecution on account of his homosexuality.
Felipe de Jesus Mendoza v. Sessions		

17-1367	Briefs	CONSTITUTIONAL: Whether plaintiffs had standing to challenge S.C. Code sections 16-17-420 as void for vagueness on its face and 16-17-530 as void as applied to students.
Niya Kenny v. Alan Wilson (Houck)		

17-1002	Briefs	EMPLOYMENT: Whether court properly struck factual allegations, applied sham affidavit doctrine, and granted summary judgment to employer on hostile work environment claim; other issues.
Lisa Cooper v. The Smithfield Packing Co. (Fox)		

PANEL V
Tweed Courtroom (Room 414-D)
9:30 a.m.

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16-1836 [Briefs](#) IMMIGRATION: Whether INA's reinstatement provision bars asylum relief; related issues.
Francisco Lara-Aguilar v. Jefferson B. Sessions

16-4848 [Briefs](#) CRIMINAL: Whether district court erred in finding officer had reasonable suspicion to extend traffic stop to
US v. Brian Bowman investigate non-traffic-related crime.
(Reidinger)

16-7552 [Briefs](#) HABEAS: Whether trial court's instructing jury not to consider offense element of which court took judicial notice
Anthony Odom v. Jerry Adger is structural error and not subject to harmless-error review.
(Seymour)

17-4061 [Briefs](#) CRIMINAL: Whether evidence was sufficient to support vicarious corporate convictions for violations of Act to
US v. Oceanic Illsabe Limited Prevent Pollution from Ships; other issues.
(Howard)

Associations: 17-4062

PANEL I
Red Courtroom (Room 412)
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16-2107 [Briefs](#)
Norfolk Southern Railway v. Sprint
(Allen)

CIVIL: Whether arbitration decision is mutual, final, and definite award.

16-4368 [Briefs](#)
US v. Jason Wheeler
(Fox)

SENTENCING: Whether sentence imposed following guilty plea to receipt of child pornography is reasonable.

PANEL II
Butzner Courtroom 201
9:30 a.m.

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17-6291 [Briefs](#) POST-CONVICTION: Did district court err in granting section 2255 motion and vacating conviction for possession
US v. John Franklin of firearm in furtherance of carjacking; other issues.
(Garbis)
Associations: 17-4135

16-4704 [Briefs](#) CRIMINAL: Whether district court erred in determining that amount of intended loss included unaccessed
US v. Junaidu Savage accounts for sentencing purposes; other issues.
(Russell)

17-1640 [Briefs](#) ENVIRONMENTAL: Whether unpermitted discharge into jurisdictional waters from pipeline point source is a
Upstate Forever v. Kinder Morgan Energy violation of Clean Water Act; other issues.
(Herlong)

PANEL III
Blue Courtroom (Room 339)
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17-4317	Briefs	CRIMINAL: Did police officers violate the Fourth Amendment by standing on public walkway and sniffing odor coming from apartment window and door; other issues.
US v. Tremayne Antwane Mitchell		
(Allen)		

17-1106	Briefs	CIVIL: Whether district court erred in dismissing RICO claim for insufficient proximate cause; whether claim is preempted by flood insurance regulations.
Slay's Restoration, LLC v. Wright National		
(Jackson)		

17-1839	Briefs	ENVIRONMENT: Whether EPA's denial of Ergon-West Virginia's hardship petition was arbitrary, capricious or otherwise contrary to law.
Ergon-West Virginia, Inc. v. EPA		

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16-4732 [Briefs](#)
US v. Michael Maynes, Jr.
(O'Grady)

CRIMINAL: Whether district court erred in failing to instruct jury regarding materiality requirement for fraud; whether court erred in excluding certain evidence; other issues.

16-2050 [Briefs](#)
Sky Angel U.S., LLC v. Discovery
(Chasanow)

CONTRACT: Issues regarding construction of agreement between distributor of television channels and providers/producers of programs and alleged breaches of contract.

17-4008 [Briefs](#)
US v. Germaine Cannady
(Bennett)

Associations: 17-4202

CRIMINAL: Whether the district court erred in granting a new trial based upon alleged Brady violation.

16-2279 [Briefs](#)
Carol Campbell v. Boston Scientific
(Goodwin)

PRODUCTS LIABILITY: Whether new trials and new punitive damages trials are required for these four consolidated medical device cases; other issues.

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Tweed Courtroom (Room 414-D)
9:30 a.m.

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17-2231 [Briefs](#)
Intl Refugee Assistance v. Donald J. Trump
(Chuang)

Hearing En Banc

En Banc Panel
Butzner En Banc Courtroom 201
9:00 a.m.

Associations: 17-2232, 17-2233, 17-2240

Friday, December 08, 2017